

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|-------------------------|---|--------------------------------------|
| FREDERICK BANKS, | : | CIVIL ACTION NO. 1:07-CV-0021 |
| | : | |
| Plaintiff | : | (Judge Conner) |
| | : | |
| v. | : | |
| | : | |
| GREEN, ET AL. | : | |
| | : | |
| Defendants. | : | |

ORDER

AND NOW, this 31st day of January, 2007, upon consideration of plaintiff's application to proceed *in forma pauperis* (Doc. 8), it is hereby ORDERED that:

1. The application to proceed *in forma pauperis* (Doc. 8) is construed as a motion to proceed without full prepayment of fees and costs and is GRANTED.
2. The United States Marshal is directed to serve plaintiff's complaint (Doc. 1) on all of the defendants named therein.
3. Defendants are directed to address only the claims set forth in plaintiff's complaint.¹

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

¹ The instant matter has been docketed as a civil rights action pursuant to 28 U.S.C. § 1331. However, the complaint sets forth a combined civil rights complaint and petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. In his habeas petition, plaintiff claims that his "first, fifth and eighth amendment rights were violated when he was lodged into the hole under pain of racial and religious discrimination and for filing grievances." (Doc. 1 at 4.) Implicitly, this claim does not challenge the very fact or duration of his physical imprisonment; therefore, the court will not consider habeas relief in this case. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).